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APPLICATION NO. ...	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,173	07/25/2003	Hans Kiening	3500/6	3888.

7590 05/14/2004

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90 Park Avenue
New York, NY 10016

EXAMINER

SMITH, ARTHUR A

ART UNIT	PAPER NUMBER
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2851

DATE MAILED: 05/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N

10/627,173

Applicant(s)

KIENING, HANS

Examiner

Arthur A Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/22/03; 9/11/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 8-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Burns (US 5936741)

In reference to claims 1-3 and 8-24, Burns discloses a test apparatus to check the exposure quality of an exposed film, in particular of a motion film, comprising: a test pattern holder for holding a test pattern of the exposed film, col. 6 lines 62-67; a light transmitter for the illumination of the test pattern held by the test pattern holder, col. 8 lines 30-60; a light receiver (19) for the reception of the light transmitted through the reference pattern and through the test pattern and for the generation of corresponding electrical received signals, col. 2 lines 39-67 (briefly describes a well known densitometer which includes a light source and a sensor); and an evaluation device for the evaluation of the received signals of the light receiver with respect to at least one quality parameter, col. 8 lines 46-60. Burns does not disclose a reference pattern,

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instead Burns discloses that all the reference marks are located on the test pattern, see fig. 1. It would have been obvious to one of ordinary skill in the art to separate the reference marks placing a first set on a "test pattern" and the second set on a reference pattern and then superimpose the patterns to recreate the reference marks since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. Further, the disclosure does not state the inventive purpose of having a separate reference pattern.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Burns (US 5936741) in view of Koltz (US 5659385).

Burns does not disclose specifically how the test pattern is affixed to the test pattern holder. Koltz discloses affixing a piece of film over a light source through the use of a blocking grip bins. It would have been obvious to one of ordinary skill in the art to realize that the test pattern could be affixed to the test pattern holder by use of blocking grip pins. This would be done since the test pattern must be affixed to the test pattern holder in a stable and fixed manner relative to the light source to allow proper calibration.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Burns (US 5936741) in view of Nagler et al. (EP 0265362 A).

In reference to claim 6, Burns does not disclose the specifics of the test pattern holder. Nagler et al. discloses a transparent test pattern holder that has two frame sections between which the test pattern and/or the reference pattern can be enclosed, col. 10 lines 50-62. It would have been obvious to one of ordinary skill in the art at the

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time the invention was made that the test pattern holder of Nagler et al. could be incorporated into the device of Burns. This would be done to allow the test pattern to be securely held in relation to the light source as well as allow the light source to pass through the holder.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur A Smith whose telephone number is (571) 272 2129. The examiner can normally be reached on Monday - Thursday from 8:00 AM to 5:30 PM. The examiner can also be reached on alternate Fridays during the same hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russ Adams can be reached on 571-272-2112. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arthur A. Smith
May 11, 2004